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RHC USA CORPORATION

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

PENN PHARMACEUTICAL
SERVICES LIMITED,

Plaintiff,

vs.

RHC USA CORPORATION,

Defendant.

) CIVIL NO. CV09-00539 DAE KSC
) (Contract)

)
) **DEFENDANT RHC USA**
) **CORPORATION'S ANSWER TO**
) **COMPLAINT; CERTIFICATE**
) **OF SERVICE**

**DEFENDANT RHC USA CORPORATION'S
ANSWER TO COMPLAINT**

Defendant RHC USA CORPORATION (“Defendant”) by and through its attorneys, Damon Key Leong Kupchak Hastert, hereby answers and responds to the Complaint filed herein by Plaintiff PENN PHARMACEUTICAL SERVICES LIMITED (“Plaintiff”) on November 10, 2009.

FIRST DEFENSE

1. The Complaint fails to state a claim against RHC USA CORPORATION upon which relief can be granted.

SECOND DEFENSE

2. The allegations contained in paragraphs 1 and 4 of the Complaint are legal conclusions as to jurisdiction and venue, which RHC USA CORPORATION neither admits nor denies, but leaves Plaintiff to its proof.

3. RHC USA CORPORATION is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs 2 and 5 of the Complaint, and therefore denies them.

4. Responding to paragraphs 3 and 6, RHC CORPORATION admits the allegations contained therein.

5. RHC USA CORPORATION denies the allegations contained in paragraphs 7-11, 13-16, 18-20, 22, 25-29, 32-35, 38, 40, and 42 of the Complaint.

6. Responding to paragraph 12, of the Complaint, RHC USA COPORATION repeats, realleges, and hereby incorporates by reference its specific answers to paragraphs 1-11.

7. Responding to paragraph 17, of the Complaint, RHC USA COPORATION repeats, realleges, and hereby incorporates by reference its specific answers to paragraphs 1-16.

8. RHC USA COPORATION maintains that paragraphs 21, 39, and 41 of the Complaint are not an allegations of fact to which an admission or denial must be made, but to the extent that said paragraphs might possibly be construed as being allegations of fact, RHC USA COPORATION denies the same.

9. Responding to paragraph 24, of the Complaint, RHC USA COPORATION repeats, realleges, and hereby incorporates by reference its specific answers to paragraphs 1-23.

10. RHC USA COPORATION is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs 23, 30, 36, and 43 of the Complaint, and therefore denies them.

11. Responding to paragraph 31 of the Complaint, RHC USA COPORATION repeats, realleges, and hereby incorporates by reference its specific answers to paragraphs 1-30.

12. Responding to paragraph 37 of the Complaint, RHC USA COPORATION repeats, realleges, and hereby incorporates by reference its specific answers to paragraphs 1-36.

13. Any allegations not responded to herein shall be deemed denied.

THIRD DEFENSE

14. Plaintiff is barred from maintaining this action against RHC USA COPORATION by reason of its own negligence, misrepresentations, or other wrongful conduct.

FOURTH DEFENSE

15. Plaintiff is barred from maintaining this action against RHC USA COPORATION for failing to mitigate his damages and any recovery must be reduced by those damages Plaintiff failed to mitigate.

FIFTH DEFENSE

16. Any recovery by Plaintiff must be set off or reduced, abated or apportioned to the extent any other party's action caused or contributed to damages, if there were any.

SIXTH DEFENSE

17. Plaintiff is barred from maintaining this action against RHC USA COPORATION due to lack of consideration.

ADDITIONAL DEFENSES

18. RHC USA COPORATION hereby gives notice of its intention to rely upon the additional affirmative defenses of insufficiency of process, insufficiency of service of process, statute of frauds, contributory and comparative negligence, assumption of the risk, lack of legal duty, doctrine of *res judicata*, doctrine of estoppel, doctrine of waiver, doctrine of abandonment, doctrine of release, doctrine of breach of a condition of a contract, lack of standing, failure to give timely notice, laches, unclean hands, rescission, election of remedies, failure of condition precedent, intervening and superseding cause, Plaintiff's claims are not ripe for adjudication, and any other matter constituting an avoidance or an affirmative defense as provided in Rule 8(c) of the Hawai'i Rules of Civil Procedure.

19. RHC USA COPORATION incorporates by reference each and every defense heretofore asserted in this action and reserves the right to assert additional defenses as they become apparent during the course of this litigation.

WHEREFORE, RHC USA COPORATION prays as follows:

1. That the Complaint be dismissed with prejudice as against RHC USA COPORATION;
2. That RHC USA COPORATION be awarded its attorneys' fees and costs; and

3. That RHC USA COPORATION be awarded such other and further relief as this Court may deem just and proper.

DATED: Honolulu, Hawaii, December 28, 2009.

DAMON KEY LEONG KUPCHAK HASTERT

/s/ Cherise K. Boyce
MICHAEL A. YOSHIDA
CHERISE K. BOYCE

Attorneys for Defendant
RHC USA CORPORATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

PENN PHARMACEUTICAL)	CIVIL NO. CV09-00539 DAE KSC
SERVICES LIMITED,)	(Contract)
)	
Plaintiff,)	CERTIFICATE OF SERVICE
)	
vs.)	
)	
RHC USA CORPORATION,)	
)	
Defendant.)	
_____)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date a true and correct copy of the foregoing document was duly served upon the following individuals via electronically through CM/ECF on the date of filing as follows:

WILLIAM S. HUNT, ESQ.	whunt@ahfi.com
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1001 Bishop Street, Suite 1800	
Honolulu, Hawaii 96813	

DATED: Honolulu, Hawaii, December 28, 2009.

DAMON KEY LEONG KUPCHAK HASTERT

/s/ Cherise K. Boyce
MICHAEL A. YOSHIDA
CHERISE K. BOYCE

Attorneys for Defendant
RHC USA CORPORATION